IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

OP.No. 6842 of 2003(M)

PETITIONER:

ANNIE ROJI, W/O. ROJI,
AGED 37 YEARS, AKUMPILLIL HOUSE,
THIRUVANIYOOR P.O., ERNAKULAM.

BY ADV. SRI.C.P.UDAYABHANU
SMT.PREETHI K.PURUSHOTHAMAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO THE GOVT.LABOUR DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. ADDITIONAL DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE
FUND BOARD, ERNAKULAM.

3. DEPUTY TAHASILDAR (REVENUE RECOVERY)
TALUK OFFICE, KUNNATHUNAD, PERUMBAVOOR.

ADDL. RESPONDENT:

4. JOY, S/O.VARKEY,
KARIKKATTU, EZHAKKARANADU.

(ADDL. RESPONDENT IS IMPLEADED AS PER ORDER
DT.27.2.2003 IN THE O.P.)

R2 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD
R1&3 BY GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.12042/2003 IN OP NO.6842/2003

DISMISSED:

27.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE AGREEMENT DT.19.5.2001.

P2: TRUE COPY OF REPRESENTATION DT.12.7.2002.

P3: TRUE COPY OF FINAL DETERMINATION ORDER.

P4: TRUE COPY OF R.R. NOTICE DT.20.1.03.

P5: .DO. .DO.

P6: REPRESENTATION DT.13.2.03.

P7: TRUE COPY OF FINAL DETERMINATION ORDER ISSUED AGAINST K.K.JOY.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.6842 of 2003

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Dated this the 27th day of November, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of Motor Transport Workers Welfare Fund. The demand is for two years 2000-2001 and 2001-2002. The petitioner's case is that the vehicle was sold to additional 4th respondent on 19.5.2001. If sale was in May 2001, then the demand for 2000-2001 will stand as petitioner was admittedly operating the vehicle during that period. Therefore, recovery for the first year is permissible. However, since Standing Counsel submitted that petitioner's objection was received after completion of adjudication, O.P. is disposed of upholding the demand for 2000-2001, but with direction to the second respondent to consider petitioner's objection and pass fresh orders for 2001-2002 after conducting enquiry and after identifying the present owner of the vehicle. Notice should also be issued to the 4th respondent to find out whether petitioner's case of sale to him is correct or not. Second respondent will pass fresh orders within two months from date of receipt of copy of this judgment. There will be direction to the recovery authorities not to recover the arrears for 2001-2002 for four

months from now. Recovery thereafter will be based on fresh orders to be issued by the second respondent.

C.N.RAMACHANDRAN NAIR
Judge

pms